

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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LEWIS FRANCOIS,

Petitioner,

- against -

WARDEN of Sullivan Correctional Facility,

Respondent.

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ROSLYNN R. MAUSKOPF, United States District Judge

Petitioner *pro se* Lewis Francois, proceeding *in forma pauperis*, brings this action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner seeks relief from his conviction in Supreme Court of the State of New York, Kings County, for Murder in the Second Degree and Criminal Possession of a Weapon in the Third Degree. On December 11, 2012, this Court ordered Francois to show cause within 45 days why his petition should not be dismissed in its entirety as a mixed-petition, and warned Francois that failure to respond by the deadline would result in dismissal of the petition without prejudice. (Dec. 11, 2012 Order (Doc. No. 9).) On January 25, 2013, the Court granted Francois a 30 day extension to respond to the December 11, 2012 Order, and again warned Francois that failure to respond by the deadline would result in the dismissal of his petition. (Jan. 25, 2013 Order.) To date, Francois has failed to file any response to the December 11, 2012 Order.

Accordingly, it is hereby ORDERED that petitioner's habeas corpus petition is  
DISMISSED without prejudice.<sup>1</sup>

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<sup>1</sup> Petitioner is advised that although AEDPA's statute of limitations is tolled during the time in which a properly filed *coram nobis* application is pending, the AEDPA statute of limitations is not tolled during the interval when a petitioner seeks leave to appeal an Appellate Division's denial of a *coram nobis* application. See *Hizbullahankhamon v. Walker*, 255 F.3d 65, 71-72 (2d Cir. 2001).

As petitioner had not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253(c)(2). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444–45, 82 S. Ct. 917, 8 L.Ed.2d 21 (1962).

The Clerk of Court is directed to mail a copy of this Order to petitioner and to close this case.

SO ORDERED.

Dated: Brooklyn, New York  
July 1, 2013

*Roslynn R. Mauskopf*

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ROSLYNN R. MAUSKOPF  
United States District Judge